

## National Crime Prevention and Privacy Compact Council

## § 902.5

or standard at any regularly scheduled Council meeting.

### § 902.3 Referral to Dispute Resolution Committee.

(a) The five person Dispute Resolution Committee membership shall be determined according to Compact Article VI (g). Should a dispute arise with an apparent conflict of interest between the disputant and a Committee member, the Committee member shall recuse himself/herself and the Compact Council Chairman shall determine an appropriate substitute for that particular dispute. In the case when the Compact Council Chairman is the committee member with the conflict, the Chairman shall take appropriate steps to appoint a replacement that resolves the conflict.

(b) The Compact Council Chairman shall refer the dispute, together with all supporting documents and materials, to the Council's Dispute Resolution Committee.

(c) The Dispute Resolution Committee shall recommend hearings to all disputants who raise issues that are not clearly frivolous or without merit. If the Committee recommends denying a hearing, it must articulate its reason or reasons for doing so in writing.

(d) The Dispute Resolution Committee shall consider the matter and:

(1) Refer it to the Council for a hearing;

(2) Recommend that the Council deny a hearing if the Committee concludes that the matter does not constitute a cognizable dispute under § 902.2(a); or

(3) Request more information from the person or organization raising the dispute or from other persons or organizations.

### § 902.4 Action by Council Chairman.

(a) The Chairman shall communicate the decision of the Dispute Resolution Committee to the person or organization that raised the dispute.

(b) If a hearing is not granted, the disputant may appeal this decision to the Attorney General. If the Attorney General believes the disputant has raised an issue that is not frivolous or without merit, the Attorney General may order the Compact Council Chairman to grant a hearing.

(c) If a hearing is granted, the Chairman shall:

(1) Include the dispute on the agenda of a scheduled meeting of the Council or, at the Chairman's discretion, schedule a special Council meeting;

(2) Notify the person or organization raising the dispute as to the date of the hearing and the rights of disputants under § 902.5 (Hearing Procedures); and

(3) Include the matter of the dispute in the prior public notice of the Council meeting required by Article VI (d)(1) of the Compact.

### § 902.5 Hearing procedures.

(a) The hearing shall be open to the public pursuant to Article VI (d)(1) of the Compact.

(b) The Council Chairman or his/her designee shall preside over the hearing and may limit the number of, and the length of time allowed to, presenters or witnesses.

(c) The person or organization raising the dispute or a Compact Party charged under the provisions of § 902.2(a)(4) shall be entitled to:

(1) File additional written materials with the Council at least ten days prior to the hearing;

(2) Appear at the hearing, in person and/or by counsel;

(3) Make an oral presentation; and

(4) Call and cross-examine witnesses.

(d) Subject to the discretion of the Chairman, other persons and organizations may be permitted to appear and make oral presentations at the hearing or provide written materials to the Council concerning the dispute.

(e) All Council members, including a member or members who raised the dispute that is the subject of the hearing shall be entitled to participate fully in the hearing and vote on the final Council decision concerning the dispute.

(f) The Council shall, if necessary, continue the hearing to a subsequent Council meeting.

(g) Summary minutes of the hearing shall be made and transcribed and shall be available for inspection by any person at the Council office within the Federal Bureau of Investigation.

(h) The proceedings of the hearing shall be recorded and, as necessary, transcribed. A transcript of the hearing

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will be made and forwarded to the Attorney General if an appeal is filed pursuant to Section (c) of Article XI of the Compact.

(i) The Council's decision on the dispute shall be based upon a majority vote of Council members or their proxies present (as per Compact Article VI and Council Bylaws) and voting at the hearing. The Council's decision on the dispute shall be published in the FEDERAL REGISTER as provided by Section (a)(2) of Article XI and Section (e) of Article VI.

(j) The Council Chairman shall advise Council members and hearing participants of the right of appeal provided by Section (c) of Article XI of the Compact.

### § 902.6 Appeal to the Attorney General.

(a) The Federal Bureau of Investigation or a Compact Party State may appeal the decision of the Council to the U.S. Attorney General pursuant to Section (c) of Article XI of the Compact.

(b) Appeals shall be filed and conducted pursuant to rules and procedures that may be established by the Attorney General.

(c) Appropriate notice of an appeal shall be communicated to the Council Chairman by the appealing party.

### § 902.7 Court action.

Pursuant to Section (c) of Article XI of the Compact, a decision by the Attorney General on an appeal under § 902.6 may be appealed by filing a suit seeking to have the decision reversed in the appropriate district court of the United States.

## PART 904—STATE CRIMINAL HISTORY RECORD SCREENING STANDARDS

Sec.

904.1 Purpose and authority.

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AUTHORITY: 42 U.S.C. 14616.

SOURCE: 70 FR 36028, June 22, 2005, unless otherwise noted.

## 28 CFR Ch. IX (7–1–14 Edition)

### § 904.1 Purpose and authority.

Pursuant to the National Crime Prevention and Privacy Compact (Compact), title 42, U.S.C., chapter 140, subchapter II, section 14616, Article IV (c), the Compact Council hereby establishes record screening standards for criminal history record information received by means of the III System for noncriminal justice purposes.

### § 904.2 Interpretation of the criminal history record screening requirement.

Compact Article IV(c) provides that “Any record obtained under this Compact may be used only for the official purposes for which the record was requested.” Further, Article III(b)(1)(C) requires that each Party State appoint a Compact officer who shall “regulate the in-State use of records received by means of the III System from the FBI or from other Party States.” To ensure compliance with this requirement, Compact Officers receiving records from the FBI or other Party States are specifically required to “ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate ‘no record’ response is communicated to the requesting official.” Compact Article IV(c)(3).

### § 904.3 State criminal history record screening standards.

The following record screening standards relate to criminal history record information received for noncriminal justice purposes as a result of a national search subject to the Compact utilizing the III System.

(a) The State Criminal History Record Repository or an authorized agency in the receiving state will complete the record screening required under § 904.2 for all noncriminal justice purposes.

(b) Authorized officials performing record screening under § 904.3(a) shall screen the record to determine what information may legally be disseminated for the authorized purpose for which the record was requested. Such record screening will be conducted pursuant